

APPEAL NO. 041493
FILED AUGUST 12, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 3, 2004. The hearing officer resolved the disputed issues by determining that the respondent (claimant) sustained a compensable heart attack on _____, and that he had disability from June 1 through August 4, 2003. The appellant (self-insured) appealed, arguing that the hearing officer misapplied Section 408.008. The claimant responded, urging affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant sustained a compensable heart attack on _____, and that he had disability as a result thereof. Section 408.008 governs the compensability of heart attacks. At issue was whether the claimant's work rather than the natural progression of a preexisting heart condition or disease was a substantial contributing factor of the heart attack. Section 408.008(2). This was a question of fact for the hearing officer to resolve based upon a weighing of the medical evidence. Texas Workers' Compensation Commission Appeal No. 012723, decided December 10, 2001. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations regarding the compensability of the heart attack, and disability therefrom, are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**NO
(ADDRESS)
(CITY), TEXAS (ZIP CODE).**

Daniel R. Barry
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge